

Deficiency Progress Report- Update 2

Received March 16, 2010

To complete the evaluation process, Cal/EPA requires the CUPAs to submit Deficiency Progress Reports that explain the CUPA's progress towards correcting the identified deficiencies. Deficiency Progress Reports are due every 90 days after the evaluation date until all deficiencies have been corrected.

CUPA: Lassen County Environmental Health

Evaluation Date: September 15 & 16, 2009

Evaluators:

Cal/EPA: Mary Wren-Wilson

SWRCB: Terry Snyder

CalEMA: Jack Harrah

Date Update 1 submitted: December 22, 2009

Deficiencies corrected with Update 1: 3, 4

Deficiencies remaining: 1, 2, 5, 6

Next Update due date: March 16, 2010

Date Update 2 submitted: March 16, 2010

Deficiencies corrected with Update 2: 6

Deficiencies remaining: 1,2,5

Next Update due date: June 14, 2010

Deficiency 1: The CUPA has not fully implemented the Underground Storage Tank (UST) program as mandated in Health and Safety Code and California Code of Regulations.

Preliminary Corrective Action(s): With the first Update report, due on December 15, 2009, the CUPA will submit an action plan outlining how the CUPA will ensure that the UST program is fully implemented. By the fourth Update report due September 17, 2010, all UST facility files will be updated with the new Forms A (Facility Information), B (Tank Information), D (Monitoring), E (Response Plan) and plot plans which contain new fields of information from the old forms. In addition, Certification of Compliance/Designated Operator and other forms shall be submitted as needed.

CUPA Corrective Action, (Update 1): The Lassen County CUPA conducted an evaluation of the Lassen County Department of Agriculture's UST Program, including file reviews, staff interviews and conducted a joint UST inspection of a permitted facility. Since the evaluation, this office was notified that the Lassen County Agriculture Department is not a CAL/EPA approved Participating Agency (P.A.), and the Lassen County Environmental Health

Department is responsible for the UST program in Lassen County. This office met with the Lassen County CAO, and the Ag Director to discuss the UST Program issue and the desire of the Lassen County Environmental Health Department to take back the UST Program. As the County has not yet received a final version of the CUPA Evaluation, the County CAO wants to wait until the final evaluation is received before making a final decision on the UST Program.

The Lassen County Ag Department does not have an ICC certified UST inspector. The Lassen County CUPA has an ICC Certified UST Inspector that is training a new CUPA UST Inspector, and together they have been conducting the UST inspections for Lassen County (some in conjunction with the Ag Department). The CUPA has inspected eight (8) of the 18 UST facilities in the county in conjunction with the Annual Monitoring Certification personnel. A check list for UST inspections has been developed and implemented, and Notice to Comply Inspection Reports are also being issued to owners/operators at the time of the inspection.

The CUPA evaluation stated that all of the UST facility files must be updated by September 15, 2010. The CUPA has reorganized all of the Ag Department's UST files into user friendly, multi tabbed files that are consistent from facility to facility. During the UST inspections, the owner/operators are given the new updated UST forms to be completed and returned to the CUPA, this practice will continue as UST facilities are inspected. The next UST facility inspections are scheduled for January and February in conjunction with the facility's Annual Monitoring Certification.

Due to State furloughs and travel restrictions, Terry Snyder, with the SWRCB, was not able to find time in his schedule to conduct an oversight inspection by November 18, 2009 as per the evaluation. CUPA staff will continue to advise him of upcoming inspections so he can schedule and to conduct the oversight inspection.

When the final CUPA evaluation is received by Lassen County, the Environmental Health Department will schedule a meeting with the County CAO to further discuss the option of moving the UST Program to the Lassen County Health Department (CUPA).

SWRCB Response: The SWRCB appreciates the efforts the CUPA has taken to get the UST program back on its feet and running smoothly. With the next update, please provide a brief Action Plan including the steps you have and are taking to ensure the UST program's success. The SWRCB would like to conduct an Oversight Inspection that was not able to be scheduled due to the SWRCB evaluator's schedule. Evaluator will be available starting in late February. Also, after/before/ on the day of the

oversight, the SWRCB would like to review the UST facility files to check on the progress being made with these records.

CUPA Corrective Action, (Update 2): As per the Lassen County CUPA Application, the Lassen County Environmental Health Department is responsible for the UST program in Lassen County. This office met with the Lassen County CAO, and the Ag Director to discuss the UST Program issue and the desire of the Lassen County Environmental Health Department to take back the UST Program. To date, the Lassen County CAO has not made a final decision on the request that the UST Program be implemented by the Lassen County Environmental Health Department (CUPA). The Lassen County Environmental Health Department will continue to conduct the UST Program in the interim to ensure that the program is adequately implemented in Lassen County. Please see the attached Lassen County Environmental Health Department proposed action plan for the UST Program in Lassen County.

The Lassen County CUPA has an ICC Certified UST Inspector that has been, and is conducting the UST inspections for Lassen County. The CUPA has inspected fourteen (14) of the 18 UST facilities in the county in conjunction with the Annual Monitoring Certification personnel. The check list for UST inspections that was developed and implemented during, and noted in the first quarterly update, is still being utilized during the UST inspections. Notice to Comply Inspection Reports are being issued to owners/operators at the time of the inspection. This office has red tagged two facilities that had significant violations, and have conducted five (5) reinspections of UST facilities that were out of compliance.

The Lassen County CUPA found that one UST facility that the Lassen County Agriculture Department had listed as closed was in fact not closed, but had just ceased operation. The CUPA has since inspected this facility, and have approved temporary closure permits for this facility, and one other UST facility.

The Lassen County CUPA has also found a facility (the old County Hospital that closed in 2002) that has not been monitored, or inspected since the hospital closed. An investigation of the abandoned facility revealed a 10,000 gallon UST still in place, and it appears to still have petroleum product in it. This office contacted the Ag Department, and got the old file for the facility. This office is attempting to locate the property owner that has a Bay Area address.

Terry Snyder, with the SWRCB, conducted an oversight inspection of the Lassen County CUPA UST Program in February. During the visit, Terry reviewed the new UST files, and went along on a UST inspection. His comments were positive as to the direction the UST program has taken since the Lassen County Environmental Health Department began implementing the UST Program.

As noted in the first quarter update, the CUPA has updated/reorganized the Ag Department's UST files. During the UST inspections, the owner/operators are given the new updated UST forms to be completed and returned to the CUPA, this practice will continue as UST facilities are inspected.

SWRCB Response: The SWRCB appreciates the efforts the CUPA continues to get the UST program back on its feet and running smoothly. The CUPA's efforts have been very encouraging and the program has made a major improvement in all areas. The SWRCB will consider this deficiency corrected if the Lassen County CAO makes the decision to turn the UST program over to the CUPA. Please keep the SWRCB advised as to the outcome of the Lassen County CAO decision and also when all UST facilities have been inspected.

Deficiency 2: The CUPA has not met the three-year inspection frequency for business plan facilities.

Preliminary Corrective Action(s): With the first Update report due on December 15, 2009, The CUPA will submit an action plan to ensure that inspection frequency is maintained.

By September 16, 2010, the CUPA will inspect one-third of its total regulated businesses.

CUPA Corrective Action, (Update 1): Please refer to the attached **Inspection Frequency Action Plan**. Items 1 through 5 have either been completed, and or are in the implementation process. The Lassen County CUPA has completed a review of the facility files, and based on our spreadsheet, the Lassen County CUPA has 195 facilities in its CUPA inventory (this does not include the 18 UST facilities), 31 of these facilities are URF facilities for an inspection inventory total of 164 facilities. Of the 164 facilities, further investigation and meetings with 11 facilities will be held in early 2010 to determine if these facilities can be given URF status as well. Assuming we will maintain the current inventory of 164, approximately 55 facilities will be need to be inspected on an annual basis to comply with Deficiency 2 requirements, which states that one-third of the regulated businesses be inspected by September 15, 2010. To date, 34 hazmat and hazardous waste sites and 1 CALARP facility have been inspected for a total of 35 inspections conducted. Based on the CUPA inspections conducted since the September 2009 evaluation, the CUPA Program is on track to meet the inspection requirement of one-third of the business plan facilities by September 15, 2010.

CalEMA Response: The inspection plan forwarded by the CUPA is satisfactory, and corrects that part of the deficiency. With the next quarterly update, please report your progress with the total number of business plan inspections conducted since the evaluation.

CUPA Corrective Action, (Update 2): Based on our CUPA inventory, Lassen County has 195 facilities in its CUPA inventory (this does not include the 18 UST facilities), 31 of these facilities are URF facilities for an inspection inventory total of 164 facilities. Based on these numbers, approximately 55 facilities will need to be inspected on an annual basis to comply with Deficiency 2 requirements. To date, 18 HMBP facilities were inspected in the month(s) prior to the CUPA evaluation, and 26 HMBP facilities have been inspected since the evaluation. One CALARP facility and 16 UST facilities have been inspected since the evaluation. As stated in the first quarterly report, the CUPA Program is on track to meet the inspection requirement of one-third of the business plan facilities by September 15, 2010.

CalEMA Response: With the next quarterly update, please report your progress with the total number of business plan inspections conducted since the evaluation.

Deficiency 5: The CUPA is not accurately reporting informal enforcement activities on the Annual Enforcement Summary Report 4.

Preliminary Corrective Action(s): By September 30, 2010, the CUPA will ensure informal enforcement actions are accurately tracked and reported in the 2009/2010 Annual Summary Report 4.

Please submit a copy of Summary Report 4 with Update 4, due September 12, 2010.

CUPA Corrective Action, (Update 1): The Lassen County CUPA has placed a correspondence log in each facility file. Staff is tracking all communications with facility operators as well as other correspondence regarding the facility. This information will be a useful tool in tracking informal enforcement activities as well as other activities related to the facility, and will help the CUPA accurately track and report informal enforcement activities on the 2009/2010 Annual Summary Report 4.

Cal/EPA Response: Cal/EPA looks forward to reviewing the Annual Summary Report 4 in September, 2010.

CUPA Corrective Action, (Update 2): CUPA staff is tracking all communications with facility operators as well as other correspondence regarding each facility. To date, a review of the files indicates approximately 76 informal activities since the evaluation. This information will be tracked, and the informal enforcement activities will be submitted in the 2009/2010 Annual Summary Report 4.

Cal/EPA Response: Cal/EPA looks forward to reviewing the Annual Summary Report 4 in September, 2010.

Deficiency 6: The CUPA is not annually reviewing their Inspection and Enforcement (I&E) Plan.

It appears that the CUPA has not reviewed their I&E Plan since the original was submitted with the CUPA application in 2001.

Preliminary Corrective Action(s): By the first update due on December 15, 2009 the CUPA will review and update the I&E Plan as necessary. A report on the review of, and any changes made to, the I&E Plan shall be submitted with Update 1.

CUPA Corrective Action, (Update 1): The Lassen County CUPA has reviewed the Lassen County Inspection and Enforcement (I&E) Plan. Currently the I&E is part of the CUPA application package submitted to the State, however, the I&E Plan will be broken out and placed in a separate binder as a stand alone document. The I&E Plan, for the most part, is still current and accurate, however some minor changes/updates are needed. Due to limited contract staff, and the training of new CUPA staff, a final revision has not been completed. It is anticipated that the final revision will be completed by the next quarterly update.

CalEPA Response: Please continue to keep Cal/EPA updated on the status of Lassen County's I&E Plan update with the next quarterly report.

CUPA Corrective Action, (Update 2): The Lassen County CUPA has reviewed the Lassen County Inspection and Enforcement (I&E) Plan. The I&E Plan was part of the CUPA application package. The I&E Plan is now a stand alone document in its own binder. During the review, it was found that the I&E Plan is still current and accurate. One change made was in regard to the APSA Program. The 2001 version referred to the California Regional Water Quality Control Board as the oversight agency for this program. This section has been amended to reflect that the APSA Program will be implemented by the CUPA when it becomes effective in 2010.

CalEPA Response: Based upon the information submitted, Cal/EPA considers this deficiency corrected.